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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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AZ CORP COMMISSION
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IN THE MATTER OF THE APPLICATION OF
FORTY NINER WATER COMPANY OF AN
EMERGENCY RATE INCREASE.

Docket No. W-01777A-02-0547

**MOTION TO AMEND DECISION
NO. 65352**

(Expedited Consideration Requested)

Applicant Forty Niner Water Company ("Forty Niner"), through undersigned counsel, and pursuant to A.R.S. Sec. 40-252, hereby requests that the Commission amend Decision No. 65352 in order to extend the deadline for filing its permanent rate increase request. Forty Niner is currently in negotiations to sell its assets to the City of Tucson. Forty Niner has filed with the Commission an application for approval to transfer its assets to the City of Tucson and cancel its Certificate of Convenience and Necessity. See Docket No W-01777A-02-0175.¹

Forty Niner and the City of Tucson have not yet executed a final agreement, but believe that they will do so in the near future. If the proposed sale is completed and

¹ Forty Niner is also filing a request for continuance of the procedural schedule and request for procedural conference in Docket No. W-01777A-02-0175 to coordinate that proceeding with the execution of the purchase and sale agreement between Forty Niner and the City of Tucson prior to the hearing on the Application.

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2 approved by this Commission, there will be no need for a permanent rate increase
3 proceeding. Thus, an extension to the deadline for filing the permanent rate increase is in
4 the public interest as it will potentially save the parties and the Commission from
5 expending their resources on issues that may well be moot within a few weeks.
6

7 In Decision No. 65352, the Commission ordered that:

8 Forty Niner shall file a permanent rate increase request within three
9 months of the effective date of this Decision, and shall include as
10 part of its filing, potential solutions to its water quality and water
11 supply problems that have caused its emergency rate applications.
Id. at 11.

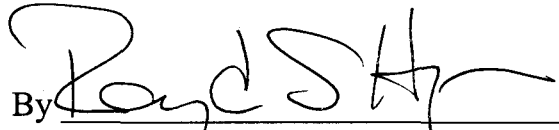
12 Decision No. 65352 was docketed on November 1, 2002. Thus, Forty Niner's
13 permanent rate increase request should be filed on or before January 31, 2003. As this
14 Commission knows, Forty Niner's resources are limited and it would be extremely
15 difficult to proceed with the preparation of the rate case and the negotiation of the sale of
16 assets at the same time. Additionally, Forty Niner unexpectedly found itself in the
17 position of having to retain new legal counsel. These factors have made it increasingly
18 difficult for Forty Niner to prepare a permanent rate increase request within the time
19 stated in Decision No. 65352.
20
21

22 Due to the proximity of the filing deadline, Forty Niner requests that this matter be
23 considered on an expedited basis. Forty Niner will work with the Commission to
24 facilitate a timely consideration of this motion.
25
26
27

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Respectfully submitted this 31st day of December, 2002.

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By 

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